IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION No. 1139 OF 2007

Office Notes, Office Memorandum of Coram appearances, Court's orders or directions and Registrar's orders :	:	Court's or Judge's orders

Mr. K. D. Suryawanshi, advocate for the petitioner.

Mrs. V. V. Kejariwal, APP for the respondent Nos. 1 and 2.

CORAM : R.M.S. KHANDEPARKAR
AND
Mrs. V.K. TAHILRAMANI, JJ.

DATE : OCTOBER 3, 2007.

P.C.

. Heard. The learned advocate for the petitioner has stated that petitioner is not pressing for the reliefs in terms of prayer Clause (b). The challenge is restricted to the sanction granted by the police authorities for initiation of proceedings under Maharashtra Control of Organized Crimes Act, 1999, in respect of which reliefs are sought under prayer Clause (c) and (e).

2. It is the grievance of the petitioner

that the sanction has been granted without proper application of mind by the concerned authority in as much as that it has been recorded in the sanction that there are offences registered against the petitioner, out of which charge sheet has been filed in respect of 7 offences, but in fact there is no charge sheet filed against the petitioner. Attention is sought to be drawn to the expression "continuing unlawful activity" defined under Section 2(d) of the Maharashtra Control of Organized Crimes Act 1999. The definition of the expression "continuing unlawful activity" under S. 2(d) itself is a clear answer to the contentions sought to be canvassed on behalf of the petitioner. The said expression "continuing unlawful activity" means an activity probihited by law for the time being in force, which is a cognizable offence punishable with imprisonment of three years or more, undertaken either singly or jointly, as a member of an organized crime syndicate or on behalf of such syndicate in respect of which more than one charge sheet have been filed before a competent court

within the preceding period of ten years and that court has taken cognizance of such offence. Obviously the charge sheet referred to in the said definition refer to offences and not to the accused person, as such. Besides the charge sheet may be in relation to any one member or more members of the organized crime syndicate. Being so, merely because there was no charge sheet individually against the petitioner, that would not be a justification to conclude that the authorities did not apply their mind before according sanction or approval for initiation of proceedings under the said Act. As no other point is canvassed in the matter, the petition fails and is hereby rejected.

Sd/-
[R.M.S. KHANDEPARKAR, J.]

Sd/-
[Smt. V. K. TAHILRAMANI,J.]